

*This article presents general guidelines for Georgia nonprofit organizations as of the date written and should not be construed as legal advice. Always consult an attorney to address your particular situation.*

## Legislative Scorecards: What Are They and Can You Use Them?

Does your organization have a particular interest in how politicians vote on proposed laws? Are there certain politicians you feel better represent your organization's interests over others? One way organizations can make their members or followers aware of how politicians are voting on select issues of importance is to distribute legislative scorecards.

Legislative scorecards are compilations of the voting records of politicians currently in office on proposed bills or ordinances. Normally displayed as a chart, legislative scorecards denote how a particular legislator voted on a particular bill or ordinance. Here is a basic sample:

Legislator	Bill 1	Bill 2	Bill 3	Bill 4	Bill 5	Bill 6
Rep. David Scott	yes	no	yes	yes	yes	yes
Rep. Tom Price	no	no	yes	yes	no	yes
Rep. Jack Kingston	yes	no	yes	yes	yes	yes
Rep. John Lewis	yes	no	no	yes	no	no
Rep. Sanford Bishop	no	yes	yes	yes	no	yes
Rep. Phil Gingrey	yes	no	yes	yes	no	no

If distributed properly, legislative scorecards can be useful tools for organizations to inform and update their members and/or followers on the status of political issues that are important to the organization's purposes. However, 501(c)(3) organizations must use caution and comply with specific regulations when distributing legislative scorecards or they risk losing their tax-exempt status.

Dated: 7/19/2016

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Nonprofits with 501(c)(3) status are prohibited from engaging in political activity.<sup>1</sup> The Internal Revenue Service (IRS) generally prohibits 501(c)(3) organizations from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office. A 501(c)(3) organization's distribution of legislative scorecards, either to the public or solely to its members, must follow the guidelines published by the IRS in order to avoid being seen as engaging in prohibited political activity and potentially losing its tax-exempt status. These guidelines are summarized below.

- ***Frequency and Timing of Distribution.*** Distribute the legislative scorecards at regular intervals (during non-election times, rather than only during election years). If the current year is an election year and this is your first time distributing legislative scorecards, then be absolutely sure to follow the other guidelines presented in this section.
- ***Whom to Include.*** Include the votes of most, if not ALL, the legislators. Do NOT limit the scorecards to show only the voting records of politicians with whom you specifically agree or disagree. If your target audience is from a particular jurisdiction, you can just show the votes of the legislators from that particular jurisdiction but be sure to show all of them.
- ***Candidates and Officers for Reelection.*** Do NOT reference whether any of the legislators in your scorecards are candidates for office or which legislators are up for reelection.
- ***Content.*** The IRS guidelines regarding the allowable content of legislative scorecards vary depending on whether the scorecards are distributed to the general public or only to the organizations members.
  - ***For organizations distributing the scorecards to the public:***
    - Although the IRS has not specifically defined “public,” public generally means a broader audience than only the organization's members. Generally, the more people that have access to the legislative scorecard, the more public the distribution becomes. For example, posting scorecards or links to the scorecards on social

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<sup>1</sup> For more information on what is considered political activity, see:

**Lobbying vs. Advocacy** (<http://www.pbpatl.org/wp-content/uploads/2012/06/Advocacy-vs-Lobbying.pdf>)

**Political Activity Guidelines** (<http://www.pbpatl.org/wp-content/uploads/2011/12/PoliticalActivityGuidelinesDCBar1.pdf>)

**Lobbying and Political Activity Webcast** (<http://www.pbpatl.org/resources/tax/lobbying-and-political-activity-for-nonprofits-2>)

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media websites such as Facebook or Twitter, where anyone can potentially access them, would undoubtedly be deemed as being distributed to the public.

- Do NOT structure the publication or include in the contents of the publication any information or opinion that could be perceived as biased.
  - Include a wide array of legislative subjects, not just those of particular interest to your organization. Do this regardless of whether your organization has zero interest in the other subjects. One option could be to collaborate with one or several other nonprofit organizations and include subjects on the scorecards that are important to each of your organizations, thus satisfying the range of topics requirement.
  - Do NOT comment on specific votes or voting patterns of any legislators.
  - Do NOT expressly or impliedly endorse or oppose any legislators, nor show approval or disapproval of any legislators' voting records.
- ***For organizations distributing their scorecards only to their members or followers:***
- The IRS gives a little more leeway to organizations that publish their scorecards only to their members or followers. A limited degree of bias is permissible.
  - The scorecard MAY address legislative votes on only selected issues of importance to the organization. You MAY report the votes in a way that illustrates whether each incumbent voted in accordance with your organization's positions on those issues.
  - Do NOT expressly or impliedly endorse or oppose any legislators.
  - Include a statement in the distribution that notes the limitations of judging the qualification of legislators on the basis of a few selected votes.

For assistance in determining whether your 501(c)(3) organization's legislative scorecards are permissible or whether they could jeopardize your tax-exempt status, consult with an attorney. Further, this article does not address any federal, state or local election laws that may apply when creating legislative scorecards. Consult an attorney or lobbyist for advice regarding compliance with these laws.

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